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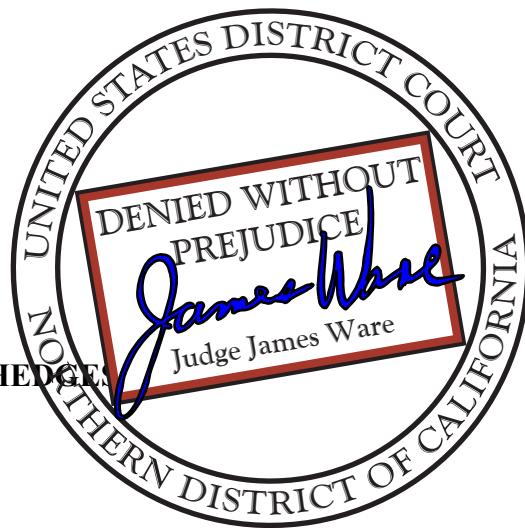
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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

## SAN JOSE DIVISION

KEVIN EMBRY, an individual, on behalf of himself, the general public and those similarly situated

CASE NO. CV-09-01808 (JW)

Plaintiff.

## **STIPULATION TO CONTINUE CLASS CERTIFICATION DISCOVERY CUTOFF AND BRIEFING SCHEDULE**

V.

ACER AMERICA CORPORATION; AND  
DOES 1 THROUGH 50

## Defendants

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1 TO THE COURT:

2 WHEREAS, the Court has set the following schedule for class certification: discovery  
3 cutoff on December 4, 2009; motion due January 18, 2008; opposition due February 1, 2009;  
4 reply due February 8, 2009; hearing February 22, 2009.

5 WHEREAS, Plaintiff served interrogatories and requests for production on August 27,  
6 2009;

7 WHEREAS, Defendant served objections and responses to the discovery on October 1,  
8 2009, which included agreement to produce certain documents;

9 WHEREAS, the parties are continuing to meet and confer about Defendants' objections  
10 and the scope and timing of production, which has not yet commenced;

11 WHEREAS, Plaintiff contends that more time is required to resolve the discovery disputes  
12 (including, if necessary, motion practice before the Magistrate with possible review by this  
13 Court), obtain and review documents, and take depositions;

14 WHEREAS, the parties also have been discussing the possibility of and structure for  
15 settlement and it is possible that a settlement might be reached in advance of a class certification  
16 motion; and

17 WHEREAS, the due date for the motion for class certification is Martin Luther King, Jr.  
18 Day, a Court holiday;

19 NOW THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE that, if the  
20 Court approves, the dates for class certification, including the discovery cut-off date, should be  
21 extended for approximately 90 days, so that the new dates will be as follows:

22 Discovery Cutoff: March 5, 2009

23 Motion Due: March 22, 2009

24 Opposition Due: April 5, 2009

25 Reply Due: April 12, 2009

26 Hearing: April 26, 2009

27 ///

28 ///

1 IT IS SO STIPULATED.

2 DATED: October 29, 2009

GUTRIDE SAFIER LLP

4 By: /s/ Adam Gutride

5 Adam Gutride

6 Seth A. Safier

7 Attorneys for Plaintiff Kevin Embry

8 DATED: October 29, 2009

9 QUINN EMANUEL URQUHART OLIVER &  
10 HEDGES, LLP

11 By: /s/ Stan Karas

12 Jeffery D. McFarland

13 Stan Karas

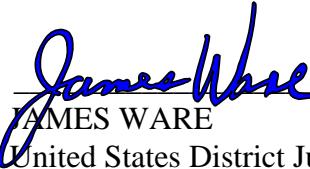
14 A.J. Bedel

15 Attorneys for Defendant Acer America  
16 Corporation

17 \*\*\* ORDER \*\*\*

18 The Stipulation is DENIED because the dates proposed are invalid.

19 Date: October 30, 2009

20   
21 JAMES WARE  
22 United States District Judge